

WINDELS
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Marx
Lane &
Mittendorf, LLP

windelsmarx.com

Charles E. Simpson
212.237.1070
csimpson@windelsmarx.com

156 West 56th Street | New York, NY 10019
T. 212.237.1000 | F. 212.262.1215

August 6, 2021

VIA ECF and EMAIL

Honorable Sean H. Lane,
United States Bankruptcy Judge
United States Bankruptcy Court,
Southern District of New York
One Bowling Green
New York, New York 10004-1408

**Re: In re Ninety-Five Madison Company, L.P.,
Chapter 11 Case No. 21-10529-SHL**

Dear Judge Lane:

Windels Marx Lane & Mittendorf LLP and the undersigned are the Bankruptcy Court-appointed counsel for Ninety Five Madison Company, L.P., Debtor and Debtor-in-Possession (the “Debtor” or “NFMC”), in the above referenced Chapter 11 case before Your Honor.

We write regarding the letter, dated August 4, 2021 (the “Letter”) (“Doc 56”) from S. Jason Teele, Esq. (“Mr. Teele”) of Sills Cummis & Gross, P.C., counsel to Vitra, Inc. (“Vitra”), a tenant and creditor of the Debtor, regarding the Debtor’s *Motion Pursuant to 11 U.S.C. §105(a) and Federal Rule of Bankruptcy Procedure 9019(a) for Entry of an Order Approving a Stipulation and Agreement of Compromise, Settlement and Release* (“Doc 50”) (the “Motion”) and to again correct the disparaging, basis lacking statements asserted by Mr. Teele, whether verbal/telephonically or written, at every opportunity.

First, as Mr. Teele stated in the Letter, “Vitra does not take a position with respect to the proposed settlement described in the Motion.” Since that statement relates to the Motion, it should have been sufficient to convey Vitra’s position thereto. However, Mr. Teele determines that, in conflict with his prior afore-stated statement, that he will utilize the Letter to raise the issue with the Court of alleged “apparent commingling of tenant security deposits with the Debtor’s own funds” which, if he is asserting a claim on behalf of Vitra for such should have been submitted to Your Honor and the Debtor in a proper pleading.

However, the above being one (1) of the three (3) matters presented to Your Honor in the Letter from Mr. Teele, the Debtor’s response to Mr. Teele’s baseless, disparaging allegations is that (i) there has been no commingling of the Debtor’s funds with tenant security deposits,

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Honorable Sean H. Lane
United States Bankruptcy Judge
August 6, 2021
Page 2

(ii) the Debtor has complied with this Courts May 17, 2021 Order that the Debtor respond in a more comprehensive manner to Vitra's Discovery Request; and, (iii) that since (i) nor (ii) have any bearing on the Motion, the only fact relevant here is that Vitra does not take a position on the Motion.

With regard to the claim of commingling of funds, please be advised that by letter, dated January 19, 2021, Robert Laplaca, Esq. of Verrill Dana LLP, then counsel to NFMC, wrote to Mr. Teele's colleagues at Sills Cummis, Mark Levenson, Esq. and Joshua N. Howley, Esq., regarding the status of the funds in NFMC's bank account at Rhinebeck Bank, Account No. 1110028568; the contents of the Account; the purpose for which the funds were transferred from the Vitra security deposit account at M&T Bank to Rhinebeck Bank; and, that the funds "... *were deposited in the ... Rhinebeck Bank account in an interest-bearing account as provided for in the Lease at Article 55 (Security Deposit) and have not been withdrawn by Landlord.*" (See Exhibit "A" attached hereto). Thus, there was never a concession from NFMC's counsel that the Debtor commingled funds.

Additional support that the Debtor did not commingle its funds with security deposit funds can be found in the August 5, 2021 letter, a copy of which is annexed hereto as Exhibit "B", along with its supporting bank statements from Rhinebeck Bank, from Mr. Michael J. McDermott, Chief Financial Officer of Rhinebeck Bank, which attests to the fact that "... the only activity in the account was the original deposit on July 10, 2020 of a ... [NFMC] check drawn on M&T Bank in the amount of \$166,626.90 that subsequently earned interest until all funds in the account were withdrawn by a Dutchess County Sheriff's Levy." Further stating, "[t]he account was closed on February 21, 2021." Thus, as supported by the attached bank statements, there was never any commingling of funds.

With regard to the statement in the Debtor's May 16, 2021 response to the Discovery Request that "... [t]he Vitra security deposit was held in a trust account with other tenant security deposits ..." and the Debtor's efforts to unfreeze its bank accounts, see attached hereto as Exhibit "C", the May 12, 2021 letter from the undersigned to Mr. Ralph Scherillo at M&T Bank requesting that M&T Bank unfreeze the funds on deposit from NFMC and RAS Property Management, LLC and that the deposited funds be made available to NFMC. Remarkably, M&T Bank only released the aforesaid funds after I reached out to Mr. Teele's partner, Joshua N. Howley, Esq., who assisted the undersigned's efforts by advising M&T Bank that the seized funds should be unfrozen and returned to NFMC. Furthermore, all of the aforesaid information regarding the seizures of NFMC's bank accounts at Rhinebeck Bank was previously provided on April 15, 2021 to the U.S. Trustee's Office; see Exhibit "D" attached hereto.

Lastly, Mr. Teele's request that this Court should require the Debtor to demonstrate that Vitra's and TellaS' security deposits are held in trust and that under the proposed settlement

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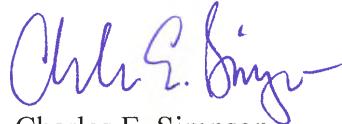
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Honorable Sean H. Lane
United States Bankruptcy Judge
August 6, 2021
Page 3

agreement before the Court, payment to TellaS is not coming from property of the estate, should have been set forth in a properly filed and served Objection to the Motion. With respect to the disposition of Vitra's security deposit, it's clear from Exhibits "B" and "C" attached hereto that Vitra's security deposit was deposited at Rhinebeck Bank, without activity, and subsequently seized by the Dutchess County Sheriff's Department and paid over to Vitra and the portion of Vitra's security deposit that remained at M&T Bank was frozen by the NYC Marshall's Office and only unfrozen at the request and consent of Mr. Teele's partner, Joshua N. Howley, Esq., and the funds remain on deposit at M&T Bank in a sub-account to the Debtor's D.I.P. Operating Account.

We believe that the above baseless allegations raised by Mr. Teele should not be heard at the August 12, 2021 hearing on the Motion as no proper pleading has been filed with the Court by Mr. Teele on Vitra's behalf and, in fact, as stated by Mr. Teele, "Vitra does not take a position with respect to the proposed settlement described in the Motion."

Respectfully submitted,



Charles E. Simpson

CES:aw

cc: S. Jason Teele, Esq. (steele@sillscummis.com)
Richard Morrissey (Richard.Morrissey@usdoj.gov)
Adam H. Friedman, Esq. (afriedman@olshanlaw.com)

EXHIBIT A

Verrill Dana LLP
355 Riverside Avenue
Westport, CT 06880
T (203) 222-3110

rlaplaca@verrill-law.com
<http://www.verrill-law.com/robert-laplaca/>
<http://www.verrill-law.com/you-might-be-a-winner>



From: Robert Laplaca
Sent: Tuesday, January 19, 2021 1:24 AM
To: Mark Levenson <MLevenson@sillscummis.com>; Joshua N. Howley <jhowley@sillscummis.com>
Subject: 95 Madison

Mark and Josh:

I understand that the Sheriff may be executing and levying upon an NFMC bank account at Rhinebeck Bank today, known as Acct no. 1110028568. It is my understanding that this account has \$166,882.75.

Please take notice that the money in this account was segregated from the Vitra security deposit account at M&T Bank last year as conditional payment of rent during the period of the governmental shutdown due to the COVID-19 pandemic in March-May 2020 which precluded construction work in the city. The Settlement Agreement at Paragraph Twenty-three provides that rent is not abated "to the extent Landlord is prevented from [installing dunnage] by force majeure" and the Lease at Article 31 provides that Landlord "may use, apply or retain the whole or any part of the security so deposited in the extent required for the payment of any rent or additional rent" without notice to Tenant. Demand at that time was not made to replenish the account.

Nevertheless, all of the funds that were withdrawn from the security account at M&T Bank were deposited in the above Rhinebeck Bank account in an interest-bearing account as provided for in the Lease at Article 55 (Security Deposit) and have not been withdrawn by Landlord.

Accordingly, if Vitra contends that Landlord had no right to access these funds for payment of rent, then Vitra should not execute on these funds. If Vitra, nevertheless, obtains these funds through execution, Landlord hereby demands, pursuant to Article 31 of the Lease, that Vitra within five (5) days pay to Landlord \$166,882.75 (or such amount executed upon from the about account) to replenish the security account.

Rob

Robert Laplaca PARTNER
Verrill Dana LLP
355 Riverside Avenue
Westport, CT 06880
T (203) 222-3110

EXHIBIT B



Corporate Offices
2 Jefferson Plaza
Poughkeepsie, NY 12601
845-454-8555
www.rhinebeckbank.com

August 5, 2021

Ms. Rita A. Sklar
Ninety-Five Madison Company, L.P.
95 Madison Ave., Suite 609
New York, NY 10016

Dear Rita,

Please find enclosed copies of the statements for Ninety-Five Madison Company, L.P.'s money market account #1110028568 for the periods July 2020 through February 2021. I've included the copy of the original deposit documents which opened the account. It appears that the only activity in the account was the original deposit on July 10, 2020 of a Ninety-Five Madison Company, L.P. check drawn on M&T Bank in the amount of \$166,626.90 that subsequently earned interest until all of the funds in the account were withdrawn by a Dutchess County Sheriff's Levy. The account was closed on February 21, 2021.

Please let me know if you need anything else.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. McDermott".

Michael J. McDermott
Chief Financial Officer

MJM/bms

Copy:



Return Service Requested

00000157 RBDD2881080 01 000000000

Ninety-Five Madison Company, L.P
95 Madison Ave
Suite 609
New York NY 10016

PO Box 1191
Poughkeepsie, NY 12602



Account Number XXXXXX8568
Statement Date 07/31/2020
Statement Thru Date 08/02/2020
Checks/Items Enclosed 0
Page 1

Customer Service Information

Customer Solutions Center
845-454-8555, option 3

Visit Us Online:
www.rhinebeckbank.com

RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRESIDENTS CLUB BUS MMDA	XXXXXX8568	\$166,687.63

PRESIDENTS CLUB BUS MMDA **Account Number: XXXXXX8568**

Account Owner(s): Ninety-Five Madison Company, L.P

Balance Summary

Beginning Balance as of 07/02/2020	\$0.00
+ Deposits and Credits (2)	\$166,687.63
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 07/31/2020	\$166,687.63
Service Fees for Period	\$0.00
Average Balance for Period	\$122,193.00

Earnings Summary

Interest for Period Ending 07/31/2020	\$60.73
Interest Paid Year to Date	\$60.73

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Jul 02	BEGINNING BALANCE			\$0.00
Jul 10	DEPOSIT	166,626.90		166,626.90
Jul 31	INTEREST EARNED		60.73	166,687.63
Aug 02	ENDING BALANCE			\$166,687.63

Daily Balance Summary

Date	Balance	Date	Balance
Jul 10	166,626.90	Jul 31	166,687.63

Page: 1

07/10/2020 \$166,626.90
16114007069068

NINETY-FIVE MADISON COMPANY LP		104-541 223	101
95 MADISON AVE SUITE 609 NEW YORK, NY 10016		DATE <u>JULY 19, 2022</u>	
<p><i>Ninety-Five Madison Company, L.P.</i></p> <p><i>PAY TO THE ORDER OF</i></p> <p><i>One hundred sixty-six thousand six hundred twenty-six DOLLARS</i></p> <p><i>Six and 60/100</i></p> <p><i>M&T Bank</i></p>		<p><i>\$166,626.90</i></p> <p><i>6-100000466 98648301210101</i></p>	
<p><i>Vitra Rent + Interest</i></p> <p><i>Rita P. Siffert</i></p>		<p><i>MEMO Rent 7/19/20 - 7/20 plus int. 1020000466</i></p>	

07/10/2020 101 \$166,626.90
16114007069069



PO Box 1191
Poughkeepsie, NY 12602

Return Service Requested

00000153 RBDD2681090 01 000000000

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016



Account Number XXXXXX8568
Statement Date 08/31/2020
Statement Thru Date 08/31/2020
Checks/Items Enclosed 0
Page 1

Customer Service Information

Customer Solutions Center
845-454-8555, option 3

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RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRESIDENTS CLUB BUS MMDA	XXXXXX8568	\$166,786.76

PRESIDENTS CLUB BUS MMDA	Account Number: XXXXXX8568
--------------------------	----------------------------

Account Owner(s): Ninety-Five Madison Company, L.P

Balance Summary

Beginning Balance as of 08/01/2020	\$166,687.63
+ Deposits and Credits (1)	\$99.13
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 08/31/2020	\$166,786.76
Service Fees for Period	\$0.00
Average Balance for Period	\$166,687.00

Earnings Summary

Interest for Period Ending 08/31/2020	\$99.13
Interest Paid Year to Date	\$159.86

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Aug 01	BEGINNING BALANCE			\$166,687.63
Aug 31	INTEREST EARNED			166,786.76
Aug 31	ENDING BALANCE	99.13		\$166,786.76

Daily Balance Summary

Date	Balance
Aug 31	166,786.76





Return Service Requested

00000151 RBDD2681100 01 000000000

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016

PO Box 1191
Poughkeepsie, NY 12602



Account Number XXXXXX8568
Statement Date 09/30/2020
Statement Thru Date 09/30/2020
Checks/Items Enclosed 0
Page 1

Customer Service Information

Customer Solutions Center
845-454-8555, option 3

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RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRESIDENTS CLUB BUS MMDA	XXXXXX8568	\$166,882.75

PRESIDENTS CLUB BUS MMDA Account Number: XXXXXX8568

Account Owner(s): Ninety-Five Madison Company, L.P.

Balance Summary

Beginning Balance as of 09/01/2020	\$166,786.76
+ Deposits and Credits (1)	\$95.99
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 09/30/2020	\$166,882.75
Service Fees for Period	\$0.00
Average Balance for Period	\$166,786.00

Earnings Summary

Interest for Period Ending 09/30/2020	\$95.99
Interest Paid Year to Date	\$255.85

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Sep 01	BEGINNING BALANCE			\$166,786.76
Sep 30	INTEREST EARNED			166,882.75
Sep 30	ENDING BALANCE	95.99		\$166,882.75

Daily Balance Summary

Date	Balance
Sep 30	166,882.75



PO Box 1191
Poughkeepsie, NY 12602

Return Service Requested

00000153 RBDD2681103 01 000000000



Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016



Account Number XXXXXX8568
Statement Date 10/30/2020
Statement Thru Date 11/01/2020
Checks/Items Enclosed 1
Page 1

Customer Service Information

Customer Solutions Center
845-454-8555, option 3

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RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRIORITY BUSINESS MM	XXXXXX8568	\$50.30

PRIORITY BUSINESS MM	Account Number: XXXXXX8568
----------------------	----------------------------

Account Owner(s): Ninety-Five Madison Company, L.P.

Balance Summary

Beginning Balance as of 10/01/2020	\$166,882.75
+ Deposits and Credits (1)	\$50.30
- Withdrawals and Debits (1)	\$166,882.75
Ending Balance as of 10/31/2020	\$50.30
Service Fees for Period	\$0.00
Average Balance for Period	\$107,666.00

Earnings Summary

Interest for Period Ending 10/31/2020	\$50.30
Interest Paid Year to Date	\$306.15

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Oct 01	BEGINNING BALANCE			\$166,882.75
Oct 21	SHERIFF'S LEVY 10/20/20		166,882.75	0.00
Oct 30	INTEREST EARNED	50.30		50.30
Nov 01	ENDING BALANCE			\$50.30

Daily Balance Summary

Date	Balance	Date	Balance
Oct 21	0.00	Oct 30	50.30





Return Service Requested

00000154 RBDD2681120 01 000000000

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016

PO Box 1191
Poughkeepsie, NY 12602



Account Number XXXXXX8568
Statement Date 11/30/2020
Statement Thru Date 11/30/2020
Checks/Items Enclosed 0
Page 1

Customer Service Information

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RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRIORITY BUSINESS MM	XXXXXX8568	\$50.31

PRIORITY BUSINESS MM Account Number: XXXXXX8568

Account Owner(s): Ninety-Five Madison Company, L.P

Balance Summary

Beginning Balance as of 11/01/2020	\$50.30
+ Deposits and Credits (1)	\$0.01
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 11/30/2020	\$50.31
Service Fees for Period	\$0.00
Average Balance for Period	\$50.00

Earnings Summary

Interest for Period Ending 11/30/2020	\$0.01
Interest Paid Year to Date	\$306.16

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Nov 01	BEGINNING BALANCE			\$50.30
Nov 30	INTEREST EARNED		0.01	50.31
Nov 30	ENDING BALANCE			\$50.31

Daily Balance Summary

Date	Balance
Nov 30	50.31



PO Box 1191
Poughkeepsie, NY 12602

Return Service Requested

00000152 RBDD2881010 01 000000000

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016



Account Number	XXXXXX8568
Statement Date	12/31/2020
Statement Thru Date	01/03/2021
Checks/Items Enclosed	0
Page	1

Customer Service Information

Customer Solutions Center
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RELATIONSHIP SUMMARY

Account Type	Account Number	Balance
PRIORITY BUSINESS MM	XXXXXX8568	\$50.31

PRIORITY BUSINESS MM Account Number: XXXXXX8568

Account Owner(s): Ninety-Five Madison Company, L.P.

Balance Summary

Beginning Balance as of 12/01/2020	\$50.31
+ Deposits and Credits (0)	\$0.00
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 12/31/2020	\$50.31
Service Fees for Period	\$0.00
Average Balance for Period	\$50.00

Earnings Summary

Interest for Period Ending 12/31/2020	\$0.00
Interest Paid Year to Date	\$306.16





PO Box 1191
Poughkeepsie, NY 12602

Return Service Requested

00000148 RBDD2681013 01 000000000

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016



Account Number XXXXXX8568
Statement Date 01/29/2021
Statement Thru Date 01/31/2021
Checks/Items Enclosed 0
Page 1

Customer Service Information

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RELATIONSHIP SUMMARY

Account Type	Account Number	Interest Paid In 2020	Balance
PRIORITY BUSINESS MM	XXXXXX8568	\$306.16	\$0.00
PRIORITY BUSINESS MM			Account Number: XXXXXX8568

Account Owner(s): Ninety-Five Madison Company, L.P.

Balance Summary

Beginning Balance as of 01/01/2021	\$50.31
+ Deposits and Credits (0)	\$0.00
- Withdrawals and Debits (1)	\$50.31
Ending Balance as of 01/31/2021	\$0.00
Service Fees for Period	\$0.00
Average Balance for Period	\$29.00

Earnings Summary

Interest for Period Ending 01/31/2021	\$0.00
Interest Paid Year to Date	\$0.00

Transaction Detail

Date	Description	Deposits	Withdrawals	Balance
Jan 01	BEGINNING BALANCE			\$50.31
Jan 19	DEBIT MEMO		50.31	0.00
Jan 31	ENDING BALANCE			\$0.00

Daily Balance Summary

Date	Balance
Jan 19	0.00



PO Box 1191
Poughkeepsie, NY 12602

Return Service Requested

00000003 R0DD2681022 01 00000000
Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016



FINAL STATEMENT

Account Number	XXXXXX8568
Statement Date	02/19/2021
Statement Thru Date	02/21/2021
Checks/Items Enclosed	0
Page	1

Customer Service Information

Customer Solutions Center
845-454-8555, option 3

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www.rhinebeckbank.com

RELATIONSHIP SUMMARY

Account Type	Account Number	Interest Paid In 2020	Balance
PRIORITY BUSINESS MM	XXXXXX8568	\$306.16	\$0.00
PRIORITY BUSINESS MM	Account Number: XXXXXX8568		

Account Owner(s): Ninety-Five Madison Company, L.P.

Balance Summary

Beginning Balance as of 02/01/2021	\$0.00
+ Deposits and Credits (0)	\$0.00
- Withdrawals and Debits (0)	\$0.00
Ending Balance as of 02/21/2021	\$0.00
Service Fees for Period	\$0.00
Average Balance for Period	\$0.00

Earnings Summary

Interest for Period Ending 02/21/2021	\$0.00
Interest Paid Year to Date	\$0.00

EXHIBIT C



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Charles E. Simpson
212.237.1070
csimpson@windelsmarx.com

156 West 56th Street | New York, NY 10019
T.212.237.1000 | F. 212.262.1215

May 12, 2021

VIA EMAIL
(rscherillo@mtb.com)

Mr. Ralph Scherillo
M&T Bank
95 Madison Avenue
New York, NY 10016

Re: Ninety-Five Madison Company, LP, DIP/Release of Frozen Bank Accounts

Dear Mr. Scherillo:

As you are aware, the undersigned and this Firm are attorneys for Ninety-Five Madison Company, LP, D.I.P. ("NFMC") in their Chapter 11 case pending in the United States Bankruptcy Court for the Southern District of New York. The Chapter 11 case was filed on March 22, 2021 and a Notice of the Filing was delivered to M&T Bank.

As discussed earlier today, the purpose of this letter is NFMC's request that the two (2) bank accounts at M&T Bank in the name of and wherein NFMC and RAS Property Management, LLC ("RAS") deposited funds belonging to NFMC and which accounts were frozen due to levies of the accounts by the NYC Marshall's Office and/or the Dutchess County Sheriff's Office, be unfrozen and the deposited funds made available to NFMC. The bank accounts at M&T Bank referred to are as follows:

1. Ninety-Five Madison Company, LP – Acct. No. 986483012; and,
2. RAS Property Management, LLC – Acct. No. 9852318113.

Please advise the undersigned of the status of the above bank accounts at M&T Bank and the funds that were on deposit in them. In the event there is a process or protocol which NFMC must follow or complete, please advise and provide the necessary documentation.

Finally, it is imperative that we move expeditiously with respect to the unfreezing of the above bank accounts and release of the funds on deposit therein. Remarkably, the Marshall's Office claims that it had never asserted a lien or levy on the above accounts. However, M&T Bank has provided NFMC with opposing advice. As a Debtor in the above-mentioned Chapter 11 case, NFMC is required to take possession of the funds on deposit in the above accounts pursuant to the provisions of the U.S. Bankruptcy Code.



Mr. Ralph Scherillo
M&T Bank
May 12, 2021
Page 2

Should you have any questions with respect to the above, please do not hesitate to call the undersigned at your earliest convenience.

Respectfully,

WINDELS MARX LANE & MITTENDORF, LLP

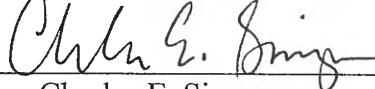
By: 
Charles E. Simpson
A Member of the Firm

EXHIBIT D

Almonte, Manuel

From: Almonte, Manuel
Sent: Thursday, April 15, 2021 5:04 PM
To: 'Richard.morrissey@usdoj.gov'; 'victor.abriano@usdoj.gov'
Cc: Simpson, Charles E.
Subject: Ninety-Five Madison Company, LP/Closure of Rhinebeck Bank Accounts Due to Seizures
Attachments: Rodgers Ltr.pdf; Sklar Ltr.pdf; Execution with Notice to Garnishee.pdf; Sheriff's Levy.pdf

15, 2021

April

VIA EMAIL

To:
Richard Morrissey, Esq. (Richard.morrissey@usdoj.gov)
Victor Abriano, Esq. (victor.abriano@usdoj.gov)

From: Charles E. Simpson

Re: Ninety-Five Madison Company, LP/Closure of Rhinebeck Bank Accounts Due to Seizures

Gentlemen:

Attached hereto for your review, please find the following documents reflecting the seizures by the Dutchess County Sheriff's Office of funds in and closing of the Ninety-Five Madison Company, LP ("NFMC") bank accounts with Rhinebeck Bank:

1. April 8, 2021 letter from Mr. Patrick Laffin, SVP of Rhinebeck Deposit Operations and Electronic Payments, to Ms. Rita A. Sklar, Manager of RAS Property Management, LLC, general partner of NFMC, regarding the Statements previously delivered to your office and the formal closure of the Rhinebeck accounts and requirements to open new accounts;
2. October 22, 2020 letter with attachment from Ms. Lauren Rodgers, Operations Generalist at Rhinebeck, with reference to the Sheriff's Levy received by Rhinebeck on October 20, 2020 in the amount of \$580,279.19 and the amount of \$298,088.78 removed by Rhinebeck from NFMC's accounts and \$0.00 status;
3. "Sheriff's Levy", dated October 15, 2020, served on Rhinebeck bank by the Dutchess County Sheriff's Office against NFMC in the amount of \$580,279.19, plus interest calculated at 9% and a daily fee of \$136.06; and,
4. Execution With Notice to Garnishee (NFMC) served on Rhinebeck bank by Sills Cummis & Gross P.C., attorneys for Vitra, Inc in the amount of \$551,796.58.

Should you have any questions, please call or write at your earliest convenience. However, I believe the above certifies the closure of NHMC's bank accounts at Rhinebeck Bank.

Respectfully,
Charles E. Simpson



Corporate Offices
2 Jefferson Plaza
Poughkeepsie, NY 12601
845-454-8555
www.rhinebeckbank.com

October 22, 2020

Ninety-Five Madison Company, L.P.
95 Madison Ave
Suite 609
New York NY 10016

RE Sheriff's Levy
Index No. 652342/2017

Dear Ninety-Five Madison Company, L.P.,

Enclosed for your immediate attention is a copy of the Sheriff's Levy received by Rhinebeck Bank on October 20, 2020 in the amount \$580,279.19.

Account Summary As of 10/20/20:

Account Number	Amount in Account	Amount Protected	Amount Removed	Legal Fee Charged
XXXX3898	-\$420,590.55	\$0.00	\$131,206.03	\$0.00
XXXX8568	-\$384,913.83	\$0.00	\$166,882.75	\$0.00

Account Summary As of 10/21/20:

Account Number	Amount in Account
XXXX3898	-\$253,707.80
XXXX8568	-\$253,707.80

Please note that the account balances on October 21, 2020 reflect adjusted account holds placed to be in accordance with the Restraining Notice received on September 28, 2020 for \$551,796.58 and to account for the monies already removed from the accounts on October 20, 2020.

To be in accordance with the levy, the above stated funds will not be remitted to the Sheriff until on or after January 18, 2021. The bank provides this courtesy to its customers in the event an error has been made.

I can be reached at the number listed below, if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Rodgers".

Lauren Rodgers
Operations Generalist
Operations Support
845-454-8555 x1522



Main Quick Launch Recent Last Menu Applications Operations Controls Options Inquiry

Rhinebeck Bank

Customer Portfolio

Current    

Enter search text or keyword

Print Options     

Customer Information

Customer Inquiry | Customer Relationships | Dyna Portfolio Snapshot | Dyna Customer Note | Dyna Contact Note | Known Credit Projects | Conversion, Credit Profile

Ninety-Five Madison Company L.P. TIN X000XB512 Display User Nbr SKLAR
 85 Madison Ave Phone 212 532-8834 Business Reg-O
 Suite 608 Status Active Privacy Not Assigned
 New York NY 10016 View Image VIP

10-20-20
 Jn

Comments 

Account Information

Account < > Account Totals | Detailed List | Services

Balances Dates Payoff

Application	Account	Ref	Typ	06	0m	Balance	Aval Balance	Chq/Off Balance	Status	
Demand Dep	1110038558 PRT	40	007	001		166,882.75	384,913.83	.00 Open		1
Demand Dep	7100033892 PRT	6	011	001		131,206.03	420,590.55	.00 Open		2



Dutchess County Sheriff's Office
 Civil Division
 108 Parker Avenue
 Poughkeepsie NY 12601
 Telephone: (845) 486-3840
 Fax: (845) 486-3850

Adrian H. Anderson
 Sheriff
 Gerard F. Lennon
 Colonel
 Todd A. Grieb
 Sergeant

SHERIFF'S LEVY

NOTICE TO:
 RHINEBECK BANK
 2 JEFFERSON PLAZA
 POUGHKEEPSIE, NY 12601
 File #: 20001377
 VITRA, INC.
 vs.
 NINETY-FIVE MADISON COMPANY, L.P.

SSN/TIN: 13-3118512
 SSN/TIN: _____
 Acct #: _____
 Date: 10/15/2020

I HEREBY LEVY to the extent necessary to satisfy this attachment or execution with interest, Sheriff's fees and expenses upon any interest of the debtor, named in the copy of the attachment/execution served upon you herewith on all personal property which is in your possession or custody and upon any debt you owe to debtor, not specifically exempt from levy by law. The amount of \$580,279.19 as of today's date, 10/19/2020, including principal, interest, poundage and fees. **The calculated rate for this document is \$136.06 per day.** Note: Interest is recalculated at a rate of 9% per annum on a daily declining balance. Please contact this office for the exact final balance.

NOTE: THIS LEVY EFFECTS any existing debt which is past due, currently due or yet to become due, certainly or upon demand of the debtor, wherever incurred, including any cause of action which can be assigned or transferred wherever accruing, and any existing interest in personal property which can be assigned or transferred whether it consists of a present or future right or interest and whether or not it is vested, including any debt or property specified in an accompanying notice; and, it also affects the interest in property hereafter coming into your possession or custody and all debts hereafter coming due from you to the debtor, until you pay or transfer the debt or property to the Sheriff.

YOU ARE FORBIDDEN BY LAW to transfer, pay over, or otherwise dispose of the debt or property so levied upon as hereinbefore specified to any person other than the Sheriff, except by written direction of the Sheriff. The Sheriff has and claims a lien upon the levied property for his statutory fees and poundage.

I HEREBY DEMAND that you furnish me forthwith with a statement specifying the amount and nature of any and all such property of the debtor, including the maturity date of debts. If you do not, you are subject to examination under oath by direction of the Court.

I HEREBY FURTHER DEMAND that you forthwith transfer all such property and pay over to me all such debts upon maturity, and execute any document necessary to affect the transfer or payment. If you do not, you are subject to suit by the creditor to recover such property or the amount of your indebtedness, obligation or other accountability with costs and expenses.

DISCHARGE: Such payment or transfer shall discharge you from your obligation to the attachment/judgment debtor to the extent of the payment or transfer. **** MAKE CHECKS PAYABLE TO THE SHERIFF OF DUTCHESS COUNTY AND INDICATE THE NAME OF THE CASE AND FILE NUMBER WHEN REMITTING.**

ADRIAN H. ANDERSON
 SHERIFF
 By _____
 Deputy Sheriff

20TH day of OCTOBER 2020 at 12:00 AM/PM

Levy



101310

20001377

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
VITRA, INC., :
Plaintiff, : Index No. 652342/2017
-against- : EXECUTION WITH
NINETY-FIVE MADISON COMPANY, L.P., : NOTICE TO GARNISHEE
Defendant. : Re: Ninety-Five Madison Company,
 : L.P., Judgment Debtor
----- X

THE PEOPLE OF THE STATE OF NEW YORK

TO ANY SHERIFF OR MARSHAL OF THE COUNTY OF DUTCHESS:

WHEREAS, in connection with an action pending in the Supreme Court of New York, County of New York, between Vitra, Inc. as plaintiff ("Judgment Creditor") and Ninety-Five Madison Company, L.P. as defendant ("Judgment Debtor"), Judgment was entered on September 1, 2020 in favor of Judgment Creditor, and against Judgment Debtor, who are all of the parties named in such action, and thereafter docketed in the Supreme Court of the State of New York, County of New York, in favor of Judgment Creditor, in the total amount of \$551,796.58, of which the full amount with interest thereon remains due and unpaid.

NOW, THEREFORE, WE COMMAND YOU to satisfy the said judgment out of the real and personal property of the above-named Judgment Debtor and the debts due to it; and that only the property in which said Judgment Debtor who is not deceased has an interest or the debts owed to it shall be levied upon or sold hereunder; AND TO RETURN this execution to the clerk of the above-captioned court within 60 days after issuance unless service of this execution is made within that time or within extensions of that time made in writing by attorneys for the Judgment Creditor.

NOTICE TO GARNISHEE:

TO: Rhinebeck Bank

ADDRESS: Corporate Offices
2 Jefferson Plaza
Poughkeepsie, New York 12602

WHEREAS, it appears that you are indebted to the Judgment Debtor, above named, or in possession or custody of property not capable of delivery in which the Judgment Debtor has an interest.

NOW, THEREFORE, YOU ARE REQUIRED by section 5232(a) of the Civil Practice Law and Rules forthwith to transfer to the sheriff all personal property not capable of delivery in which the Judgment Debtor is known or believed to have an interest now in or hereafter coming into your possession or custody including any property specified in this notice; and to pay to the sheriff, upon maturity, all debts now due or hereafter coming due from you to the Judgment Debtor, including any debts specified in this notice; and to execute any documents necessary to effect such transfer or payment;

AND TAKE NOTICE that until such transfer of payment is made or until the expiration of 90 days after service of this execution upon you or such further time as is provided by any order of the court served upon you, whichever event first occurs, you are forbidden to make or suffer any sale, assignment or transfer of, or any interference with, any such property, or pay over or otherwise dispose of any such debt, to any person other than the sheriff, except upon direction of the sheriff or pursuant to an order of the court;

AND TAKE FURTHER NOTICE THAT at the expiration of 90 days after a levy is made by service of this execution, or such further time as the court upon motion of the Judgment Creditor has provided, this levy shall be void except as to property or debts which have been transferred or paid to the sheriff or as to which a proceeding under sections 5225 or 5227 of the Civil Practice Law and Rules has been brought.

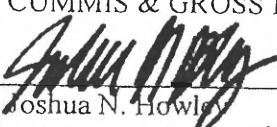
EXECUTION NOTICE

Pursuant to CPLR § 5205(l), \$2,500 of an account containing direct deposit or electronic payments reasonably identifiable as statutorily exempt payments, as defined in CPLR § 5205(l)(2), is exempt from execution and that the garnishee cannot levy upon or restrain \$2,500 in such an account.

Pursuant to CPLR § 5222(i), an execution shall not apply to an amount equal to or less than 90% of the greater of 240 times the federal minimum hourly wage (prescribed in the Fair Labor Standards Act of 1938) or 240 times the state minimum hourly wage (prescribed in section 652 of the labor law) as in effect at the time the earnings are payable, except such part as a court determines to be unnecessary for the reasonable requirements of the judgment debtors and their dependents.

Dated: New York, New York
October 15, 2020

SILLS CUMMIS & GROSS P.C.

By: 

Joshua N. Howley
101 Park Avenue, 28th Floor
New York, New York 10178
(212) 643-7000
*Attorneys for Plaintiff and
Judgment Creditor Vitra, Inc.*